HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Revision No. 41/2001
(Old No. 805 of 1987)

Sobat Singh and Shashi Kant ……Revisionists
Vs.
State of U.P. …….Respondent

Hon'ble Irshad Hussain, J.

Heard Sri Rakesh Thapliyal learned counsel for the revisionists and Sri H.C. Pandey learned A.G.A. for the State and perused the record.

This criminal revision under section 397/401 of the Code of Criminal Procedure (for short 'Code') has been preferred against the judgment and order dated 22.4.1987 passed by the Sessions Judge, Tehri Garhwal in criminal appeal no. 30/1986 under Section 60 of the Excise Act. The revisionists were convicted and sentenced to undergo RI for six months and a fine of Rs. 2000/- each under section 60 of the Excise Act by the CJM, Tehri Garhwal. On appeal being preferred the judgment of the trial court was affirmed and this is how the present revision was filed.

Learned counsel for the revisionists did not dispute the finding of the conviction but argued that the sentence awarded was severe in the facts and circumstances of the case. The incident took place in the year 1982 when bottles of country-made illicit liquor were ceased from the revisionists. Since the occurrence took place more than 20 years ago and they have already undergone detention for about one month, the ends of justice will be satisfied if the sentence is reduced to the period already undergone and the fine is enhanced to Rs. 3000/- each (Rupees three thousands only).

For the reasons aforesaid, the revision is partly allowed. The conviction of the revisionist under section 60 of the Excise Act is upheld. The sentence awarded is modified and sentence is reduced to the period already undergone by them and to pay fine of Rs. 3000/- each (Rupees three thousands each). In default of payment of fine the revisionists shall undergo R.I. for three months.

Leaned counsel for the revisionists pointed out that both the revisionists have deposited the fine of Rs.2000/- each (Rupees two thousands each) with the trial court. The trial court shall verify the same and initiate the recovery proceedings for Rs. 1000/- each (Rupees one

thousand only), in case the revisionists fails to pay the enhanced fine within one month.

(Irshad Hussain, J.)

Date 30.4.2004
Rawat